



March 12, 2004

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20551

Re: Comments to Proposed Amendments to Regulation CC  
Docket No. R-1176

Dear Ms. Johnson:

The Association for Work Process Improvement (TAWPI) is pleased to respond to the Board of Governors of the Federal Reserve System's proposed amendments to Regulation CC that would add a new subpart D, with commentary, to implement the recently-enacted Check Clearing for the 21<sup>st</sup> Century Act.

TAWPI's mission is to enhance the performance of organizations and strengthen the value of professionals that employ emerging technologies in mail, remittance, document and forms processing. TAWPI's core membership is comprised of middle and senior level managers who are responsible for lockbox and remittance processing operations in organizations such as banks, third party lockbox providers, insurance, utilities, telecommunications, retail, card services and other major billers.

In 2002, TAWPI formed the Remittance Processing Check Conversion Council to help our core membership identify and understand the business and implementation issues related to check conversion. The mission of the Council is to identify, understand, and contribute to the development of payment work processing that will benefit the future direction of remittance processing operations. The TAWPI Council is made up of 42 member organizations and over 130 active participants. Attached for reference is a current list of TAWPI Remittance Processing Check Conversion Council members. They have been instrumental in identifying areas of concern related to these proposed amendments, and we welcome the opportunity to discuss these issues in our response to the Request for Comment.

Our response to the issues in this proposal is provided from an operation's perspective, including the biller or its agent (bank lockbox or third party non-bank lockbox provider).

*The mission of the Association for Work Process Improvement is to enhance the performance of organizations and strengthen the value of professionals that employ emerging technologies in mail, remittance, document and forms processing.*

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TAWPI is supportive of the initiatives of the Federal Reserve to allow a substitute check that is subject to the substitute check warranties to be the legal equivalent of an original check to facilitate the use of electronics in the check collection process and as a way to improve work process in a remittance processing environment. The Council spent a great deal of time reviewing the RFC, which stimulated much discussion. As a result, we have chosen to make the attached general comments.

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## **TAWPI Remittance Processing Council**

Members as of March 1, 2004

ABN AMRO  
AFS - Advanced Financial Solutions, Inc.  
Allstate Insurance Company  
Ameren Services  
AT&T  
BancTec, Inc.  
Bank One  
Capital One Services, Inc.  
Carreker Corporation  
CheckFree Corporation  
Citigroup  
Comerica Bank  
CSC  
Data Management Products, Inc.  
Discover Financial Services, Inc.  
Federal Reserve Bank  
Fidelity Investments  
First Data Corporation  
Fleet Credit Card Services  
Garnett Consulting Group, Inc.  
J&B Software, Inc.  
JPMorgan Chase  
KeyBank National Association  
Mellon Global Cash Management  
Meta Software, Corp.  
National City Corporation  
National Item Processing, Inc.  
NetDeposit  
OPEX Corporation  
Palmer Consulting, Inc.  
PECO Energy Company  
Politzer & Haney  
Regulus Group, LLC  
Solutran Customized Payment Solutions  
The Takoma Group

U.S. Bank  
U.S. Dataworks, Inc.  
Unisys Corporation  
Verizon Communications  
Wachovia Treasury Services  
Wausau Financial Systems  
Wells Fargo bank

## **Comments to Proposed Regulation Under the Check 21 Act**

In general, the TAWPI Remittance Processing Council Members are in agreement with the efforts of the Federal Reserve to allow a substitute check that is subject to the substitute check warranties to be the legal equivalent of an original check to facilitate the use of electronics in the check collection process. The Council spent a great deal of time reviewing the RFC, which stimulated much discussion. Due to the diverse makeup of the membership, we choose to make the following general comments about the RFC.

1. Indorsement locations on substitute checks (229.35(a) and appendix D)

We are concerned about the capture of the indorsement of the original check, especially if the indorsement is typically sprayed on the original check after electronic capture. Size of the indorsement - before image capture and shrinkage – and subsequent indorsements should be taken into consideration and should be addressed before the law becomes effective.

2. Indorsement location “shift” caused by substitute check creation (229.38(d)(1) is also an issue as billers/processors may be required to change endorsements to assure the resizing required to place the reduced image on the IRD does not create a problem with resulting image and the readability of the indorsements.

3. Carrier Envelopes; stripped items should not impact the billers/processors as long as the billers/processors provide the banks with an electronic file from which IRDs can be printed.

4. Reconverting bank duties: no need to obtain unapplied indorsements; must identify truncating bank (229.51(b). This issue should not impact the biller unless the biller is sending directly to the reconverting bank, in which case the issue should be covered by separate agreement.

5. Substitute check legal equivalence (229.51(a)(1): This section is not clear, and it appears the industry has not yet fully addressed the issue. If a biller/processor may be

held responsible by the bank to capture all the information, an investment in image quality software or the ability to check “all the information” will more than likely be required. Although the proposed changes spell out what is considered to be all the information, the loss of security features of a check is an issue that must be addressed. It appears the solutions may not be developed until after the law is in effect. This will have an impact on billers/processors if a bank attempts to pass back liability because this information was not captured.

6. Substitute check legal equivalence: a bank must make the Check 21 warranties (229.51(a). If the banks are taking MICR and images from the billers/processors to create IRDs, the banks may attempt to pass liability to the biller/processor to assure the warranties are met in usability. (Reconverting banks will likely provide image quality checks as a back-up for the bank and the billers/processors). This issue may be addressed by separate agreements.
7. Substitute check warranties’ applicability (229.52(a)(2). An important note here is that billers/processors need to understand that if they hold, and/or have responsibility for, an original item that has been truncated, the bank may attempt to pass liability on to the biller/processor if they accidentally process the item again.
8. Time at which banks must provide a consumer awareness disclosure (229.57(b). We noted this is a bank issue which should be addressed soon by the banks. If they choose, billers/processors can make consumers aware that the checks they use to make payments may be converted to IRDs in an effort to assist in consumer awareness, although this responsibility does reside with the banks.
9. Another issue we would like to see addressed: the use of a substitute check to replace a converted check (ARC). Even though an item may have been used as a source document to create an ACH item, it may become necessary to re-convert that item to an IRD for collection purposes, especially if the item was converted in error for some reason, such as a business check converted in error, a RDFI/Receiving Depository Financial Institution does not accept ACH, etc.. We encourage a more thorough distinction of a source document to determine if an item was a check to begin with, thereby making it eligible for processing as an IRD.